

Introduced by Senator Kehoe

February 22, 2005

An act to add Section 13105.6 to the Health and Safety Code, and to amend Sections 4290, 4464, 4475, 4475.1, 4475.5, 4476, and 4480 of, and to add Section 4442.6 to, the Public Resources Code, relating to forest practices.

LEGISLATIVE COUNSEL'S DIGEST

SB 1084, as introduced, Kehoe. Forest practices.

Under existing law, the State Board of Forestry and Fire Protection is required to classify all lands within the state to determine areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state.

The bill would require the State Fire Marshal to establish a certification program for a private individual to be trained as a fire safe inspector, fire safe plan reviewer, or fire safe plan specialist. The bill would prohibit a person from selling, offering for sale, leasing, or renting to any person a specified internal combustion engine, unless the equipment has a permanent warning label attached warning of the danger of starting a fire from sparks created by the operation of the equipment.

The bill would revise the definition of "wildland" and define "hazardous fuel reduction" for purposes of a state responsibility area.

Existing law requires the State Board of Forestry and Fire Protection to adopt minimum fire safety standards for construction approved within state responsibility areas after January 1, 1991.

This bill would require those fire safety standards to also apply to construction approved on or before to January 1, 1991, within state responsibility areas on a parcel that is transferred, sold, gifted, or exchanged after January 1, 2006.

The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13105.6 is added to the Health and
2 Safety Code, to read:

3 13105.6. (a) The State Fire Marshal shall establish a
4 certification program for a private individual to be trained as a
5 fire safe inspector, fire safe plan reviewer, or fire safe plan
6 specialist.

7 (b) The State Fire Marshal shall develop a training curriculum
8 for the certification program.

9 (c) The training may be conducted through the University of
10 California at Davis extension program or through other providers
11 approved by the State Fire Marshal.

12 (d) The State Fire Marshal may adopt regulations to provide
13 additional course curriculum or requirements.

14 SEC. 2. Section 4290 of the Public Resources Code is
15 amended to read:

16 4290. (a) The board shall adopt regulations implementing
17 minimum fire safety standards related to defensible space ~~which~~
18 *that* are applicable to state responsibility area lands under the
19 authority of the department. These regulations apply to the
20 perimeters and access to all residential, commercial, and
21 industrial building construction within state responsibility areas
22 approved after January 1, 1991, *and to construction approved on*
23 *or before January 1, 1991, on a parcel that is transferred, sold,*
24 *gifted, or exchanged on or after January 1, 2006.* The board may
25 not adopt building standards, as defined in Section 18909 of the
26 Health and Safety Code, under the authority of this section. As an
27 integral part of fire safety standards, the State Fire Marshal has
28 the authority to adopt regulations for roof coverings and openings
29 into the attic areas of buildings specified in Section 13108.5 of
30 the Health and Safety Code. The regulations apply to the
31 placement of mobile homes as defined by National Fire
32 Protection Association standards. These regulations do not apply
33 where an application for a building permit was filed prior to
34 January 1, 1991, or to parcel or tentative maps or other

1 developments approved prior to January 1, 1991, if the final map
2 for the tentative map is approved within the time prescribed by
3 the local ordinance. The regulations shall include all of the
4 following:

- 5 (1) Road standards for fire equipment access.
- 6 (2) Standards for signs identifying streets, roads, and
7 buildings.
- 8 (3) Minimum private water supply reserves for emergency fire
9 use.
- 10 (4) Fuel breaks and greenbelts.

11 (b) These regulations do not supersede local regulations ~~which~~
12 *that* equal or exceed minimum regulations adopted by the state.

13 SEC. 3. Section 4442.6 is added to the Public Resources
14 Code, to read:

15 4442.6. (a) No person shall sell, offer for sale, lease, or rent
16 to any person any internal combustion engine subject to Section
17 4442 or 4443, and not subject to Section 13005 of the Health and
18 Safety Code, unless the equipment has a permanent warning
19 label attached that is in plain view to the operator that states,
20 “WARNING - Operation of This Equipment May Create Sparks
21 That Can Start Fires Around Dry Vegetation. A Spark Arrestor
22 May be Required. The Operator Should Contact Local Fire
23 Agencies For Laws or Regulations Relating to Fire Prevention
24 Requirements.”

25 (b) The department may adopt regulations regarding the
26 lettering, design, or placement of the warning label.

27 SEC. 4. Section 4464 of the Public Resources Code is
28 amended to read:

29 4464. Unless the context clearly requires otherwise, the
30 following definitions govern the construction of this chapter:

31 (a) “Wildland” means any land that is classified as a state
32 responsibility area pursuant to Article 3 (commencing with
33 Section 4125) of Chapter 1 and includes any land having a
34 *flammable* plant cover ~~consisting principally of grasses, forbs, or~~
35 ~~shrubs that are valuable for forage.~~ “Wildland” also means any
36 ~~lands that are contiguous to lands classified as a state~~
37 ~~responsibility area if wildland fuel accumulation land not~~
38 ~~classified as a state responsibility area where the geographic~~
39 *location of these lands and accumulation of wildland fuel* is such

1 that a wildland fire occurring on these lands would pose a threat
2 to the adjacent a state responsibility area.

3 (b) “Wildland fuel” means any timber, brush, grass, or other
4 flammable vegetation, living or dead, standing or down.

5 (c) “Wildland fire” means any uncontrolled fire burning on
6 wildland.

7 (d) “Prescribed burning” or “prescribed burning operation”
8 means the planned application and confinement of fire to
9 wildland fuels on lands selected in advance of that application to
10 achieve any of the following objectives:

11 (1) Prevention of high-intensity wildland fires through
12 reduction of the volume and continuity of wildland fuels.

13 (2) Watershed management.

14 (3) Range improvement.

15 (4) Vegetation management.

16 (5) Forest improvement.

17 (6) Wildlife habitat improvement.

18 (7) Air quality maintenance.

19 (e) “Prescribed burn crew” means personnel and firefighting
20 equipment of the department that are prepared to contain fire set
21 in a prescribed burning operation and to suppress any fire that
22 escapes during a prescribed burning operation.

23 (f) “Person” means any natural person, firm, association,
24 partnership, business trust, corporation, limited liability
25 company, company, or combination thereof, or any public
26 agency other than an agency of the federal government.

27 (g) *“Hazardous fuel reduction” means the application of*
28 *practices to wildlands, the primary impact of which to the*
29 *vegetation is generally limited to the reduction of surface and*
30 *ladder wildland fuels. These practices include, but are not*
31 *limited, to prescribed fire, piling by machine or by hand in*
32 *preparation for burning, thinning, pruning, or grazing.*
33 *Treatments that reduce crown densities shall be prescribed only*
34 *for the purpose of impacting fire behavior, and where it can be*
35 *reasonably concluded based on the proposed treatment that the*
36 *likelihood for the formation of crown fires is reduced.*

37 SEC. 5. Section 4475 of the Public Resources Code is
38 amended to read:

39 4475. The director, with the approval of the Director of
40 General Services, may enter into a contract for prescribed

burning *or other hazardous fuel reduction* with (1) the owner or any other person who has legal control of any property or (2) any public agency with regulatory or natural resource management authority over any property that is included within any wildland for any of the following purposes, or any combination thereof:

- (a) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.
- (b) Watershed management.
- (c) Range improvement.
- (d) Vegetation management.
- (e) Forest improvement.
- (f) Wildlife habitat improvement.
- (g) Air quality maintenance.

No contract may be entered into pursuant to this section unless the director determines that the public benefits estimated to be derived from the prescribed burning *or other hazardous fuel reduction* pursuant to the contract will be equal to or greater than the foreseeable damage that could result from the prescribed burning *or other hazardous fuel reduction*.

SEC. 6. Section 4475.1 of the Public Resources Code is amended to read:

4475.1. The director, with the approval of the Director of General Services, may enter into a master agreement with federal land management agencies to conduct joint prescribed burning operations on wildlands and federal lands where these operations serve the public interest and are beneficial to the state. This master agreement shall be known as the ~~Interagency~~ *Multiagency* Agreement for Cooperative Use of Prescribed Fire and shall establish guidelines for the cooperative management of joint prescribed burning operations. The master agreement shall require the completion of a project agreement for each individual prescribed burn which shall include the following:

- (a) A list of all participants.
- (b) A joint prescribed burn plan.
- (c) A display of the project costs to be assumed by each participant.
- (d) A summary of the benefits to be received by each participant.
- (e) An apportionment of suppression cost to each participant in the event a wildfire escapes from the project.

1 Project costs to be assumed by each agency or cooperator shall
2 be based on the benefits received by each participant. The
3 apportionment of suppression cost shall be based on the
4 following:

- 5 (1) The benefits received by each participant.
- 6 (2) The amount at risk of each participant.
- 7 (3) The cost to produce the desired benefits received by each
8 participant.
- 9 (4) The total acreage included by each participant.

10 SEC. 7. Section 4475.5 of the Public Resources Code is
11 amended to read:

12 4475.5. (a) The state may assume a proportionate share of the
13 costs of site preparation and prescribed burning *or other*
14 *hazardous fuel reduction* conducted pursuant to this article on
15 wildlands other than wildlands under the jurisdiction of the
16 federal government. The state's share of those costs shall bear the
17 same ratio to the total costs of the operation as the public benefits
18 bear to all public and private benefits to be derived from the
19 prescribed burning operation *or other hazardous fuel reduction*,
20 as estimated and determined by the director. The state's share of
21 the costs may exceed 90 percent of the total costs of the
22 operation only if the director determines that no direct private
23 economic benefits will accrue or will be utilized by a person that
24 owns or controls any property under contract pursuant to Section
25 4475.

26 (b) The board shall adopt regulations establishing standards to
27 be used by the director in determining the state's share of ~~such~~
28 *these* costs and in determining whether, pursuant to Section 4475,
29 the public benefits of a prescribed burning operation *or other*
30 *hazardous fuel reduction* will equal or exceed the foreseeable
31 damage therefrom.

32 (c) The determination of public and private benefits pursuant
33 to this section shall reflect any substantial benefit to be derived
34 from accomplishing any of the purposes specified in Section
35 4475 and the prevention of degradation of air quality.

36 (d) All or part of ~~such~~ *these* costs to be borne by the person
37 contracting with the department may be met by the value of
38 materials, services, or equipment furnished by that person
39 directly, or furnished by that person pursuant to an agreement
40 with a private consultant or contractor, or furnished by a

1 combination of both means, that are determined by the
2 department to be suitable for the preparation for, and the conduct
3 of, the prescribed burning operation *or other hazardous fuel*
4 *reduction*.

5 SEC. 8. Section 4476 of the Public Resources Code is
6 amended to read:

7 4476. Any contract which is entered into pursuant to this
8 article shall do all of the following:

9 (a) Vest in the director the final authority to determine the
10 time during which wild land fuel and structural fire hazards may
11 be burned to minimize the risk of escape of a fire set in a
12 prescribed burning operation and to facilitate maintenance of air
13 quality.

14 (b) Clearly state the obligation of each party to the contract to
15 provide, maintain, and repair equipment and indicate the number
16 of each type of equipment to be provided and the duration of its
17 availability.

18 (c) Designate an officer of the department as the fire boss with
19 final authority to approve and amend the plan and formula
20 applicable to ~~the~~ a prescribed burning operation, to determine
21 that the site has been prepared and the crew and equipment are
22 ready to commence the operation, and to supervise the work
23 assignments of departmental employees and all personnel
24 furnished by the person contracting with the department until the
25 prescribed burning is completed and all fire is declared to be out.

26 (d) Specify the duties of, and the precautions taken by, the
27 person contracting with the department and any personnel
28 furnished by that person.

29 (e) Provide that any personnel furnished by a person
30 contracting with the department to assist in any aspect of site
31 preparation or prescribed burning *or other hazardous fuel*
32 *reduction* shall be an agent of that person for all purposes of
33 worker compensation. However, any volunteer recruited or used
34 by the department to suppress a wild land fire originating or
35 spreading from a prescribed burning operation is an employee of
36 the department for all purposes of worker compensation.

37 (f) Specify the value assigned to the materials, services, or
38 equipment furnished by the person contracting with the
39 department in lieu of payment of all or part of that person's share
40 of the actual costs.

(g) Specify the total costs of the prescribed burning operation *or other hazardous fuel reduction* and the pro rata share thereof for each party to the contract. Any person contracting with the department shall, prior to the commencement of any work by the department, place on deposit in an interest-bearing escrow or trust account with a California-licensed financial institution an amount equal to that person's pro rata share of the costs, less the value of materials, services, or equipment specified pursuant to subdivision (e). Interest earned on the account shall accrue to the depositor and may be separately disbursed from the principal amount upon request of the depositor. Disbursement of funds on deposit in the trust or escrow account shall be authorized by the depositor within 15 days after completion, to the depositor's satisfaction, of all work specified in the contract to be done by the department.

(h) Provide that the department may, in its discretion, purchase a third party liability policy of insurance ~~which~~ *that* provides coverage against loss resulting from a wild land fire sustained by any person or public agency, including the federal government. The amount of the policy, if purchased, shall be determined by the director. The policy shall name the person contracting with the department and the department as joint policyholders. The premium shall be included as a cost prorated as provided in subdivision (g). A certificate of insurance, if purchased, covering each policy shall be attached to or become a part of the contract. If the department elects not to purchase insurance, the department shall agree to indemnify and hold harmless the person or public agency contracting with the department with respect to liability arising out of performance of the contract.

SEC. 9. Section 4480 of the Public Resources Code is amended to read:

4480. In any area of the state where there are substantially more requests for prescribed burning operations *or other hazardous fuel reduction* pursuant to this article than can be conducted directly by the department in a single fiscal year, the director may, with the approval of the Director of Finance, enter into an agreement with private consultants or contractors or with other public agencies for furnishing all or a part of the state's share of the responsibility for planning the operation, preparing the site, and conducting the prescribed burning *or other*

1 *hazardous fuel reduction*. The private consultant or contractor or
2 other public agency, and the work assignments of its employees,
3 shall be supervised by the fire boss *when conducting prescribed*
4 *burning operations, or designated officer of the department when*
5 *conducting other hazardous fuel reduction*, as provided in
6 subdivision (c) of Section 4476. No agreement may be entered
7 into pursuant to this section unless the director determines that it
8 will enable the prescribed burning operation to be conducted at a
9 cost equal to, or less than, the cost that would otherwise be
10 incurred by the state.

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